

GENERAL COUNSEL'S OPINION NUMBER 56-2, DATED 18 APRIL 1956

The Home Service Transfer Allowance is payable upon PCS transfer to the United States if certain requirements established by law and regulations are met.

DA QA/QC: 03/05/01.  
SY

TO THE CHIEF, PAYROLL AND TRAVEL BRANCH, FINANCE DIVISION

1. Your memorandum of 27 March 1956 requests answers to certain questions which have arisen in regard to home service transfer allowances. It appears from the questions asked that there may be some misunderstanding as to the type of transfer which makes an individual eligible for the home service transfer allowances. Two of the questions indicate a belief that such allowances are available on TDY transfer. Such is not the case. The Foreign Service Act amendment authorizing such allowances permits their payment whenever "extraordinary and necessary expenses, not otherwise compensated for, are incurred . . . incident to the establishment of his residence at any post of assignment abroad or at a post of assignment in the continental United States between assignments to posts abroad." The language of the statute authorizing the allowances for expenses incident to establishment of residence clearly refers to PCS transfer. The Standardized Regulations (Government Civilians, Foreign Areas) also make this clear. Agency regulation [ ] paragraph 2(b), defines transfer to mean a PCS reassignment.

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2. Any question you may have had in regard to the eligibility for home service transfer allowances upon TDY assignment is answered in accordance with the previous paragraph. Your other questions are rephrased where necessary and answered accordingly. Those questions and the answers are as follows:

- A. Question: Is an individual assigned PCS to Headquarters and placed under a medical "hold" eligible for home service transfer allowances, assuming that the medical action appears to be a temporary one and that the individual will eventually be eligible for reassignment?

Answer: Such an individual is eligible for home service transfer allowances provided the procedures of [ ] paragraph 4 are complied with, and it is clear that the individual should be able to return to an overseas assignment.

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Page 2 - General Counsel's Opinion No. 56-2

- B. Question: Would the answer to A be the same if the medical hold was such as to preclude forever the reassignment of the individual to an overseas post?

Answer: No. The home service transfer allowances are payable only upon the understanding that upon completion of the present assignment the individual will return to an overseas post. When such return is clearly not contemplated the allowance cannot be paid.

- C. Question: What rights does an individual have to home service transfer allowances if he is returned TDY but his status is later changed to PCS?

Answer: Neither the Agency nor Standardized Regulations cover this point specifically. Payment of home service transfer allowances is not mandatory and the standards to be applied when not set forth in Standardized Regulations are within the discretion of the Agency. It should be borne in mind that the allowances are designed to cover the unusual expenses necessarily incident to the establishment of residence upon PCS transfer. If it appears that these expenses must be incurred and are not otherwise reimbursed, it should not matter that the individual for a period prior to his assignment PCS has been at the same post in a TDY status.

- D. Question: What is the responsibility of the individual to refund allowances where he was originally under a temporary hold but within the first six months after return the medical hold became permanent?

Answer: Except in cases of voluntary separation or retirement within six months of payment of home service transfer allowances there is no requirement that they be refunded. If the employee has complied in good faith

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Page 3 - General Counsel's Opinion No. 56-2

[redacted] he should  
not be required to refund the allowances solely because  
at a later date it is discovered that his intended re-  
assignment to an overseas post has become impossible.

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LAWRENCE R. HOUSTON  
General Counsel

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